

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF NORTHERN	)	
KENTUCKY WATER DISTRICT FOR APPROVAL	)	CASE NO.
OF FINANCING AND ISSUANCE OF A	)	2018-00316
CERTIFICATE OF CONVENIENCE AND	)	
NECESSITY	)	

ORDER

On October 3, 2018, Northern Kentucky Water District (Northern Kentucky District) filed its application for a Certificate of Public Convenience and Necessity (CPCN) and approval of financing for water main replacement. The application also contained a motion for deviation from the regulatory notice requirement set forth in 807 KAR 5:001, Section 12(1)(a), requiring the financial exhibit submitted cover a period no less than 90 days from the filing of the application. On October 8, 2018, Northern Kentucky District filed a separate motion for deviation from 807 KAR 5:001(8)(12)(a)(2). On October 17, 2018, the Commission granted Northern Kentucky District's motions for deviation. No person has sought intervention in this matter. Northern Kentucky District has not requested a hearing in this matter.

Northern Kentucky District, a water district organized under KRS Chapter 74, provides retail water service to approximately 82,891 customers in Kenton, Boone, and

Campbell counties, Kentucky, and sells water at wholesale to non-affiliated water distribution systems in Kenton, Boone, Pendleton, and Campbell counties.<sup>1</sup>

This CPCN is for the replacement of an existing 36-inch concrete water main with 2,600 feet of 24-inch ductile iron main in Kenton County.<sup>2</sup> The total cost of the proposed project, including engineering, construction, and contingencies costs is approximately \$1.2 million.<sup>3</sup>

Northern Kentucky District intends to finance this project with \$1 million from a \$4 million loan,<sup>4</sup> approved by the Kentucky Infrastructure Authority (KIA) and inadvertently executed effective July 1, 2017. The \$4,000,000 loan is to be repaid over a 20-year term at an interest rate of 1.75 percent per annum with a loan-servicing fee of 0.25 percent of the annual outstanding loan balance payable to KIA with each interest payment. The remaining \$3,000,000 will be used to finance another project at a later date.<sup>5</sup> Northern Kentucky District filed a response to Commission Staff's request for updated loan documentation, which explained the actions taken by KIA and Northern Kentucky District that led to the inappropriate execution of the assistance agreement prior to the Commission's approval of the agreement.<sup>6</sup> Northern Kentucky District explained that KIA sent them final documents to execute. Northern Kentucky District

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<sup>1</sup> *Annual Report of Northern Kentucky Water District to the Kentucky Public Service Commission for the Year Ended December 31, 2017* at 14, 15, 52, and 63.

<sup>2</sup> Application, paragraph 5.

<sup>3</sup> *Id.*, paragraph 6.

<sup>4</sup> *Id.*

<sup>5</sup> Northern Kentucky District stated that "[t]he second project funded by this loan will be submitted for approval when it is bid, which is expected to be early next year. It involved upgrades to the existing SCADA system to improve safety and security."

<sup>6</sup> Response to Data Request, Nov. 30, 2018, at 2-3.

executed the documents and returned them to the KIA. These actions were taken as a result of “staff turnover in both organizations, confusion at the time over certification and financing requirements of the Commission and a concern about the potential risk of loan rescission after the 18 month timeframe ending August 10, 2017.”<sup>7</sup> There were no funds drawn on the KIA loan and Northern Kentucky District assured the Commission that no funds would be drawn on the funds until the Commission approval is obtained.<sup>8</sup> Northern Kentucky District assured the Commission that all further action related to the loan would be held until Commission approval is obtained, and KIA will issue a loan supplemental assistance agreement that documents the proceedings at the time Commission approval is obtained.<sup>9</sup> While the Commission admonishes Northern Kentucky District for its actions in executing the assistance agreement prior to Commission approval, the Commission notes that Northern Kentucky District put all action related to the loan on hold and supplemented the record with a complete explanation. Additionally, Northern Kentucky District and KIA will supplement the assistance agreement upon receiving the required approval from the Commission. The Commission finds that Northern Kentucky District took adequate and substantial actions to remedy the situation and to prevent a similar oversight in the future.

Northern Kentucky District will finance the remaining \$200,000 for the current project from a future Bond Anticipation Note (BAN).<sup>10</sup>

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<sup>7</sup> *Id.* at 2.

<sup>8</sup> *Id.* at 2.

<sup>9</sup> *Id.* at 2–3.

<sup>10</sup> *Application*, Exhibit D.

Viox & Viox, Inc., of Erlanger, Kentucky, prepared the plans and specifications for the proposed project.<sup>11</sup>

The Kentucky Division of Water (KDOW) approved the plans and specifications for the proposed project of a 24-Inch Cross-Country Water Main Replacement Project on February 12, 2018.<sup>12</sup>

Northern Kentucky District opened bids for this project on September 6, 2018. Bids are subject to acceptance for 90 days. The bids on this project will expire on December 4, 2018.<sup>13</sup>

Northern Kentucky District states that the proposed improvements will enable it to continue to provide adequate service to its customers.<sup>14</sup>

Having reviewed the application and being otherwise sufficiently advised, the Commission finds that:

1. The existing 36-inch concrete water main requires frequent and complicated repairs. The water main traverses steep terrain and is currently shut down due to a leak in an extremely deep area.
2. The proposed project consists of taking the existing main out of service and installing 2,600 feet of 24-inch ductile iron main in Kenton County.
3. The proposed construction will not result in wasteful duplication of existing facilities.

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<sup>11</sup> *Id.*, Exhibit A.

<sup>12</sup> *Id.*, Exhibit B.

<sup>13</sup> *Id.*, paragraph 10.

<sup>14</sup> *Id.*, paragraph 7.

4. The proposed construction does not conflict with any existing certificates or the service of any other utility operating in the area.

5. Public convenience and necessity require the proposed construction, which allows Northern Kentucky District to continue to provide reliable and adequate water service to its customers.

6. KDOW has approved the plans and specifications for the proposed project.

7. The proposed Assistance Agreement with KIA is for lawful objects within Northern Kentucky District's corporate purpose. It is necessary for, appropriate for, and consistent with the proper performance of Northern Kentucky District's service to the public. It will not impair Northern Kentucky District's ability to perform that service. It is reasonably necessary and appropriate for such purpose.

8. Northern Kentucky District should be authorized to utilize \$1,000,000 of the proceeds of the KIA Assistance Agreement on the project approved herein.

9. Northern Kentucky District has not yet applied for a CPCN for the project identified in its request for approval of financing or demonstrated that the other project is an ordinary extension. Instead, Northern Kentucky District identified the project as upgrades to the existing SCADA system to improve safety and security. Northern Kentucky District should not be authorized to utilize any of the proceeds for any other project unless and until Northern Kentucky District obtains prior Commission approval for the use of the proceeds for any other project.

10. Furthermore, \$200,000 of this project will be financed through a BAN, and Commission approval of the financing of this amount is not presently required.

However, pursuant to KRS 278.300, Northern Kentucky District should seek Commission approval before issuing any long-term revenue notes.

IT IS THEREFORE ORDERED that:

1. Northern Kentucky District is granted a CPCN to proceed with the proposed construction as set forth in its application. This CPCN is only for the 24-inch Cross Country Water Main Replacement Phase 2 Improvements project.

2. Northern Kentucky District shall notify the Commission prior to performing any additional construction not expressly authorized by this Order.

3. Any deviation from the approved construction shall be undertaken only with the prior approval of the Commission.

4. Northern Kentucky District shall require construction to be inspected under the general supervision of a licensed professional engineer with a Kentucky registration in civil or mechanical engineering to ensure that the construction work is done in accordance with the contract drawings and specifications and in conformance with the best practices of the construction trades involved in the project.

5. Northern Kentucky District is authorized to supplement the executed Assistance Agreement with KIA and, under the terms of that Agreement, to borrow from KIA an amount not to exceed \$4 million to be repaid over a 20-year period at an interest rate of 1.75 percent per annum and loan servicing fee of 0.25 percent per annum.

6. Within 30 days of executing its supplemented Assistance Agreement with KIA, Northern Kentucky District shall file with the Commission an executed copy of the supplemented Assistance Agreement. Northern District shall use \$1 million of the proceeds from the proposed Assistance Agreement with KIA only for the project set

forth in its application and approved by the Commission. None of the proceeds, however, shall be used for the construction of any other project unless and until Northern Kentucky District obtains prior Commission approval for the use of the proceeds.

7. Northern Kentucky District shall submit an application to the Commission prior to issuing any securities that require approval pursuant to KRS 278.300.

8. Northern District shall file with the Commission documentation of the total costs of this project, including the cost of construction and all other capitalized costs, (e.g., engineering, legal, administrative) within 60 days of the date that construction authorized under this CPCN is substantially completed. Construction costs shall be classified into appropriate plant accounts in accordance with the Uniform System of Accounts for water utilities prescribed by the Commission.

9. Northern District shall file a copy of the “as-built” drawings and a certified statement that the construction has been satisfactorily completed in accordance with the contract plans and specifications within 60 days of the substantial completion of the construction certificated herein.

10. Any documents filed in the future pursuant to ordering paragraphs 2, 6, 8, and 9 shall reference this case number and shall be retained in the post-case correspondence file.

11. The Executive Director is delegated authority to grant reasonable extensions of time for the filing of any documents required by this Order upon Northern Kentucky District’s showing of good cause for such extension.

12. This case is closed and removed from the Commission’s docket.

By the Commission

ENTERED  
DEC 12 2018  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

Case No. 2018-00316

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